

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Oct 03, 2023

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOHN VALDA RICE,

Plaintiff,

v.

No. 2:23-CV-00087-SAB

ORDER DISMISSING ACTION

28 U.S.C. § 1915(g)

CHERYL STRANGE, MELISSA
ANDREWJESKI, TURNER, SOWYER,
WELLAN, MELISSA MOORE,
KRISTEN WILLIAMS, DYLAN
DENNISON, MICHELLE YOUNG,
TURNER, MCMAHON, FIELDS, GARY
QUARLES, KENNETH LYBBERT, C.
JAWILLI, CONLEY, SHANE RIRIE, MS.
PENCE, REBEKA DAVIS, RUTH DOE,
JASON MARTIN, K. HODGSON,
STEFAN ROSE, RAND, K.
GALLAGHER, D. NILES, JOSHUA
CRUGER, HORN, POKOLICCHIO,
GHAZAL ZAINAB, RONNA COLE,
CARIANNE SCHUSTER, MARK

ORDER DISMISSING ACTION -- 1

1 ELIASON, RUTH DANIELS, REBWAR
2 BABAN, M. BARTLETT, S. DANIELS,
3 JOSHUA LANSVERK, D. HENNING, S.
4 THOMAS, CLARK, JOHN DOE, and DR.
5 LONGANO,
6
7 Defendants.
8

9 By Order dated August 29, 2023, the Court advised Plaintiff of the
10 deficiencies of his First Amended Complaint and directed him to amend or
11 voluntarily dismiss within thirty (30) days. ECF No. 28. In that Order, the Court
12 found that Plaintiff had failed to state a claim upon which relief may be granted
13 against any of the named Defendants. *Id.* at 13–20. The Court determined that
14 Plaintiff’s assertions that many of his grievances and kites were either ignored or
15 denied, or he received unfavorable responses, and that various Defendants failed to
16 provide adequate medical care, were insufficient to state a claim upon which relief
17 may be granted. *Id.*

18 Although granted the opportunity to do so, Plaintiff did not amend his
19 complaint to state a claim upon which relief may be granted. The Court cautioned
20 Plaintiff that the failure to amend or voluntarily dismiss would result in the
21 dismissal of this Complaint and a possible “strike” under 28 U.S.C. § 1915(g).
22 ECF No. 28 at 22.

23 For the reasons set forth in the Court’s Second Order to Amend or
24 Voluntarily Dismiss Complaint, ECF No. 28, Plaintiff’s First Amended Complaint,
25 ECF No. 25, is **DISMISSED** with prejudice for failure to state a claim against
26 Defendants upon which relief may be granted. 28 U.S.C. §§ 1915A(b)(1) and
27 1915(e)(2).

28 //

Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who brings three or more civil actions or appeals which are dismissed as frivolous or for failure to state a claim will be precluded from bringing any other civil action or appeal *in forma pauperis* “unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g). **Plaintiff is advised to read the statutory provisions under 28 U.S.C. § 1915. This dismissal of Plaintiff’s First Amended Complaint may count as one of the three dismissals allowed by 28 U.S.C. § 1915(g) and may adversely affect his ability to file future claims.**

Accordingly, **IT IS HEREBY ORDERED:**

1. Plaintiff’s First Amended Complaint, **ECF No. 25**, is **DISMISSED with prejudice** for failure to state a claim upon which relief may be granted under 28 U.S.C. §§ 1915A(b)(1) and 1915(e)(2).

2. This dismissal may count as a “strike” under 28 U.S.C. § 1915(g).

3. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of this Order would not be taken in good faith.

IT IS SO ORDERED. The Clerk of Court is directed to enter this Order, enter judgment, provide copies to Plaintiff, and **CLOSE** the file. The Clerk of Court is further directed to forward a copy of this Order to the Office of the Attorney General of Washington, Corrections Division.

DATED this 3rd day of October 2023.



Stanley A. Bastian

Stanley A. Bastian
Chief United States District Judge